Supreme Court, U. S.
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IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1976

No. 76-1418

COUNTY BOARD OF ARLINGTON COUNTY, VIRGINIA, *et al.*,
Petitioners,

v.

RUDOLPH A. RICHARDS, *et al.*,
Respondents.

PETITION FOR HEARING AND RECONSIDERATION OF SUMMARY DECISION

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To the Honorable, the Chief Justice and Associate Justices of the Supreme Court of the United States:

The County of Arlington, Virginia, *et al.*, recently petitioned The Supreme Court of the United States for a writ of certiorari seeking to have a decision of The Supreme Court of Virginia reviewed. The Virginia decision held that an Arlington County Ordinance which gave to residents abutting a public street a license to park vehicles upon the said street to the exclusion of all others was violative of the equal protection rights of the Federal Constitution upon its face. The Department of Justice

and others, who had not participated in the state court proceedings, sought to have their views and arguments, (which were against the Virginia decision), made known to the Supreme Court of the United States. They filed extensive briefs as *amici curiae* with this Court.

Petitioners, who were the successful appellees in the State court proceedings, were requested by the Supreme Court of the United States to respond to the Arlington County petition for certiorari. In response to the request, and in accordance with this Court's rules, a response *limited* to the issues of whether or not certiorari should be granted was filed by respondents with the said court. No appellate brief upon the *merits* of the issues sought to be reviewed was filed at that time by petitioners nor was any hearing of oral argument by petitioners permitted by the court.

On October 11, 1977, the Supreme Court of the United States granted a writ of certiorari to the County of Arlington, accepted the briefs of the *amici curiae* and at the same time summarily decided the issue brought to it for review. The court's order also remanded the matter to the Supreme Court of Virginia for further proceedings in conformity to the Supreme Court of the United States decision, but failed to specify what further proceedings were desired.[1]

The normal procedures established by the Rules of the Supreme Court of the United States for the filing of a legal brief by petitioners as appellees and for the presentation of oral argument were circumvented and prevented from occurring by the summary decision of the Supreme

[1] See dissents to summary reversals of state court decisions in *Von Cleef v. New Jersey*, 395 U.S. 814, 816; *Shipley v. California*, 395 U.S. 818, 820-822; *Harris v. Penn R. Co.*, 361 U.S. 15, 25-28; *Zavada v. United States*, 355 U.S. 392.

Court of the United States. Petitioners did not have their day in court. Petitioners were denied due process of law as guaranteed by the Federal Constitution.[2]

Petitioners ask that the court set aside its summary decision of October 11, 1977; that they be allowed to file to file their appellate briefs as provided by the Rules of the Supreme Court; that they be heard upon oral argument as provided by the Rules of this Court; and that thereafter the Supreme Court of the United States reconsider its decision in this matter.

Petitioners ask that the Supreme Court of the United States permit a voice to be heard upon the other side of the issue summarily decided by the court.

In the alternative, if the court is unwilling to learn the other side of the argument and to reconsider and set aside its summary decision, Petitioners ask that the

[2] See *State Court Decisions and the Supreme Court*, William J. Brennan, Jr., 31 Penn. Bar Assn. Quarterly, 303, 403 (No. 4, June, 1960); *Foreword: Process of Law*, Prof. Ernest J. Brown, 72 Harvard Law Rev. 77, 82-93 (1958).

court *amplify* and *clarify* to the Supreme Court of Virginia as to the further proceedings to be undertaken by the said State Court.

Respectfully submitted,

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CERTIFICATE OF COUNSEL

This is to certify that the foregoing petition is submitted in good faith and not for delay, and is restricted to the grounds stated therein.

HERBERT C. HARPER

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